

PS 8531.09 COLLECTING NON-FEDERAL DEBT - FPI



Program Statement

OPI: FPI
NUMBER: 8531.09
DATE: 6/13/2002
SUBJECT: Collecting Non-Federal
Debt - FPI

1. **PURPOSE AND SCOPE.** To establish procedures for collecting debt owed to Federal Prison Industries (FPI) from non-federal sources.

There are a number of laws and regulations governing the collection of non-federal debt owed to FPI, including the Debt Collection Act of 1982 and the Federal Claims Collection Standards and the Debt Collection Improvement Act of 1996 (DCIA).

As a result of the DCIA, increased emphasis has been placed on collecting debt owed to the U.S. Government.

- The law mandates that non-federal debt, with certain exceptions, that is more than 180 days delinquent be referred to the Department of Treasury for administrative offset.

Under the Treasury Offset Program (TOP), Treasury maintains a data base of delinquent debtors and diverts any planned payment to them to the appropriate creditor agency. FPI is enrolled in Treasury's Cross-Servicing Program, which includes, in addition to TOP, other debt collection assistance such as:

- credit bureau reporting,
- federal salary offsets, and, if necessary,
- referral of debts to a private collection agency.

2. **SUMMARY OF CHANGES.** This directive is revised to incorporate changes due to the Centralization of Accounts Receivable and implementation of **Millennium**, FPI's integrated manufacturing and financial information management system.

3. **PROGRAM OBJECTIVES.** The expected results of this program are:

- a. Debts due from the public will be collected in an efficient

and timely manner.

b. All non-federal debt that is delinquent more than 180 days will be referred to the U.S. Treasury for collection.

c. FPI will comply with all applicable statutes, regulations, and policies concerning the collection of non-federal debt.

4. DIRECTIVES AFFECTED

a. Directive Rescinded

PS 8531.05 Collecting Non-Federal Debt - FPI (3/10/99)

b. Directive Referenced

PS 2013.01 Financial Management - Debt Management
(3/3/94)

5. STANDARDS REFERENCED. None

6. TAXPAYER IDENTIFYING NUMBER (TIN). The DCIA requires that a TIN be obtained when a person is considered to be doing business with the government including all vendors and private-sector customers.

a. The two most common type of TINs are the social security number and the employer identification number (EIN). The EIN is a nine digit number (00-0000000) the Internal Revenue Service (IRS) assigns to a business. The Treasury Department uses the TIN to match delinquent debt with payments under the TOP.

b. The local site Business Manager must obtain a TIN from anyone doing business at his or her location and then forward that information to the Financial Manager, Financial Management Branch (FMB), for inclusion in the Vendor Master database.

All TINs, whether from vendors or non-federal customers, must be stored in that database.

c. **When requesting a TIN from a person doing business with FPI, the Business Manager must disclose to that party that the TIN may be used to collect and report on any delinquent amounts arising out of that party's relationship with the Government.**

7. **NON-FEDERAL DEBT.** Non-federal debt includes any debt owed to FPI by any source outside the federal government and may include:

a. **Employees.** An employee is anyone currently working for the Bureau. FPI may incur debt from employees through advancing funds for travel, either temporary duty or permanent change of station, through salary advance, or for other reasons.

b. **Former Employees.** A former employee is an individual who no longer works for the Bureau. Debts of former employees usually include debt incurred because the employee left before fulfilling a 12-month service agreement.

c. **Vendor.** Non-federal debt from a vendor generally arises from the return of merchandise FPI purchased.

d. **Non-federal Customer.** Occasionally, FPI generates non-federal debt by providing goods or services to customers outside of the Federal Government. In addition, this type of debt may be generated through sales of scrap, recycled material, or disposal of excess inventory.

e. **Classifying Non-federal Debt.** Receivables generated from all non-federal debt must be classified in the general ledger as Public Billings, account 131500.

- Once debt from an employee becomes delinquent, (i.e., Account 141000, Travel Advances) it will be reclassified immediately in account 131500, Public Billings.

Business Managers are responsible for notifying the Deputy Controller of Accounts Receivable (or designee) of debt that should be reclassified as Public Debt in accordance with debt management policies.

8. COLLECTING DEBT FROM EMPLOYEES

a. **Departing Employees.** When it is known that an employee is leaving the Bureau, the Business Manager is to determine if the employee is indebted to FPI (i.e., travel advance, salary advance, 12-month service agreement). If the employee is indebted, the Business Manager is to request the debt's full, immediate payment.

If repayment is not forthcoming, the Business Manager is to initiate action as outlined in the Program Statement on Financial Management - Debt Management.

b. **Current Employees.** The Business Manager must initiate collection action through internal salary offset for any current employee who has delinquent debt with FPI. Any internal salary offset must be accomplished in accordance with procedures in the Program Statement on Financial Management - Debt Management.

9. **COLLECTING DEBT FROM ALL OTHER SOURCES.** Outlined below are procedures for collecting non-federal debt from all sources other than employees.

a. **Dunning Procedures.** A debt is considered delinquent if it has not been paid by the date specified in the initial written notification or applicable contractual agreement (4 CFR 101.2).

Generally, FPI initiates a notification of payment due by issuing an invoice to the debtor. As soon as that invoice becomes delinquent, the Accounts Receivable section must notify the debtor of the delinquency by letter and, if possible, by telephone.

All personal contacts with the debtor, i.e., telephone calls, must be documented in the Customer header text in **Millennium** and followed up by letter. This initial letter must inform the debtor of:

- (1) The amount of the debt and, if applicable, accrued interest and penalty to date;
- (2) The basis for the debt and the debtor's rights to inspect the records and to seek a review of the debt within FPI;
- (3) The applicable standards for assessing interest, penalties, and administrative costs;
- (4) The date by which payment is to be made, which should not be more than 30 days from the date that the invoice was mailed;
- (5) That the debtor has the opportunity to enter into a written repayment agreement;
- (6) That the debt collection methods FPI may use include:
 - C offsetting any payments administratively to which the debtor is due, including internal, tax refund, salary, and/or Treasury offset;
 - C referring the debt to a private collection agency;

- C referring the debt to FPI Counsel or the
 Department of Justice Counsel for litigation;
- C reporting the debt to a credit bureau;
- C reporting the debt, if discharged, to the IRS as
 potential taxable income.

A sample of an initial letter is contained in Attachment A.

If the debt is not recovered after the initial contact:

- A follow-up letter must be sent every 30 days for at
 least the next two months, with each letter
 progressively stronger and firmer in tone.
- A final letter must be sent when the debt is 120 days
 delinquent and it must notify the debtor of FPI's
 intent to refer the debt to Treasury for collection if
 not paid within 30 days.

The Centralized Accounts Receivable (CAR) staff responsible for collecting non-federal debt must sign the initial letter and the Deputy Controller responsible for accounts receivable must sign subsequent letters.

b. **Internal Offset.** A large part of FPI's non-federal debt is incurred by vendors when selling goods and/or services to FPI that do not meet specifications (defective material). Generally the relationships with these vendors are such that recurring purchases, and consequent payments, are made. As such, FPI has an additional tool for collecting delinquent debt through internal offset.

- Internal offset means withholding of funds payable by
 FPI to the debtor to satisfy, in whole or part, the
 debt that the debtor owes to FPI.

(1) If a debt remains delinquent 30 days after the initial dunning letter has been sent, the Deputy Controller or his or her designee must notify the debtor that the debt will be collected by internal offset. After accomplishing the internal offset, the Deputy Controller or designee must prepare a letter instructing the vendor that the payment has been diverted to retire all or a part of an outstanding debt, and provide any other pertinent information.

Monies collected by internal offset must be applied first to any penalties, then to accrued interest, and finally to the principal.

(2) It is possible that a debtor continues to do business with other FPI locations even though he or she is no longer doing business with the particular location to which the debt is owed.

- To ensure that all the debtor's possible activity is considered for offset, the Deputy Controller, CAR must ensure that the debtor's vendor number is entered into the customer master in **Millennium**.
- The system will populate the vendor master with the customer number automatically, which will ensure that all payments are considered for the offset.

10. **COMPROMISE OF CLAIM OR WRITE-OFF.** A debt may be considered for compromise or write-off (either reduced or forgiven) if the full amount cannot be collected because of:

a. **the debtor's inability to pay the full amount within a reasonable time or**

b. **the debtor's refusal to pay the claim in full and the Government's inability to enforce collection in full within a reasonable time by enforced collection proceedings (4 CFR 103).**

Employees against whom a claim has been made or any person having a direct interest in that compromise must initiate a request for compromise of claim in accordance with the Program Statement on Financial Management - Debt Management.

- Approval of such requests are at the Bureau's discretion.

The Deputy Controller, CAR may recommend a write-off for all other delinquent non-federal debt before transferring the delinquent debt to Treasury for cross-servicing. With the FPI Controller's concurrence, these requests to write off a debt must be submitted to the Assistant Director for Administration for approval in accordance with the Program Statement on Financial Management - Debt Management.

11. **TRANSFERRING THE COLLECTION EFFORT TO TREASURY.** All non-federal debt delinquent for 180 days or more must be submitted to Treasury for collection.

- The Accounts Receivable section must cease collection

efforts for debts that are 150 days delinquent and submit the necessary documentation to Treasury.

The debt may not be transferred and collection efforts will remain at the Accounts Receivable section if the Deputy Controller expects the debt may be collected **in full within three years** from the date of delinquency through internal offset.

a. The Deputy Controller, CAR must certify to the FPI Controller via memorandum that:

- C the information submitted on the delinquent debt is accurate,
- C the debts is legally enforceable and that reasonable efforts have been made to obtain payment, and
- C FPI has afforded the delinquent debtor all the notification and procedural requirements directed in this Program Statement.

If applicable, the Deputy Controller, CAR should include any rationale for recommending a compromise of the debt. The Deputy Controller, CAR or designee remains responsible for processing any challenges the debtor makes in reference to the debt's accuracy and/or collectible status.

b. The Deputy Controller, CAR or designee must document immediately in the Customer Text field that the debt has been transferred to Treasury and that all local collection efforts are to cease. The entry in the text is to contain:

- C a statement that all collection efforts must cease immediately;
- C amount of accrued interest and penalty;
- C status of collection effort (i.e., internal offset requested, returned to field location, forwarded to the Bureau for compromise, forwarded to Treasury, collected).

12. **TREASURY DEBT SERVICING.** The Accounts Receivable Section staff must complete the Treasury required debtor information (see Attachment B) and forward the entire debt package to the Deputy Controller, CAR for certification to the Treasury for debt servicing.

- Depending upon the circumstances, the Deputy Controller may decide to submit the debt to FPI General Counsel or to the Department of Justice for litigation in lieu of Treasury.

a. **Certification of Debt.** The Deputy Controller over Accounts Receivable must sign a certification statement (see Attachment C) for each debt or group of debts that is referred to Treasury for collection services.

b. **Transfer of Debt to Treasury.** After the Deputy Controller certifies the debt, the package containing the Certification - Debt Collection sheet (Attachment C) and the Debt Information sheets (Attachment B) must be forwarded to the Debt Management Service (DMS) at the U.S. Treasury's Financial Management Service (FMS).

c. **Treasury Requests.** The Deputy Controller, CAR or designee must respond within five business days to any DMS requests for:

- < information,
- < approval of debtors' compromise offers, or
- < installment payment plans.

In addition, DMS staff may contact the Deputy Controller, CAR to obtain missing mandatory data elements or to obtain the corrected dollar amount.

- If the Deputy Controller, CAR cannot resolve the matter **within one day**, the debt in question will be returned to the Accounts Receivable Section.

d. **Collection by Treasury.** FPI must pay to the Treasury all fees for funds collected as agreed upon in FPI's Letter of Agreement with the Treasury FMS. Treasury is entitled to these fees once a debt has been submitted to DMS, no matter whether the debt is paid to DMS or directly to FPI.

In addition to debt collection service fees due to DMS, FPI must also pay any charges due to private sector collection agencies, the Department of Justice, the IRS for tax refund offset, DMS for Treasury Offset Program fees, or any other Federal agency for services rendered relating to debt collection.

When collecting debt for FPI, DMS will include any fees for services in the amount it is attempting to collect from the debtor.

DMS will forward funds collected, less service fees and charges, to the corporate Agency Location Code (ALC) for accounts receivable, via the On-Line Payment and Collection System (OPAC). The Deputy Controller over Accounts Receivable or his or her designee must then ensure that the payment received is applied (or partially applied for partial payments) to the receivable and that it is liquidated.

13. ASSESSING INTEREST/PENALTY/ADMINISTRATIVE COSTS. The Deputy Controller over Accounts Receivable must assess interest and penalties for all delinquent debt in accord with the procedures outlined below. Interest and penalties accrue and are to be recorded monthly until the debt is collected in full or otherwise discharged.

- The accountant must debit account 131500, Public Billings, and credit account 590000, Other Income, for the monthly accrued amounts.

a. **Interest.** Interest must be accrued on all non-federal debt from the date the initial demand letter was first mailed to the debtor. Interest must be charged on the amount due at the rate (Treasury Current Value of Funds rate) in effect on the date the interest began to accrue. (The rate of interest, as initially assessed, is to remain fixed for the duration of the indebtedness.)

- Interest may not be charged if the amount due on the claim is paid within 30 days after the date from which interest has accrued.

b. **Penalties.** A penalty of six percent per year must be assessed on the amount due for failure to pay any part of the debt more than 90 days past due from the date of the initial demand letter. (Interest does not accrue on interest or penalty charges.)

c. **Administrative Charges.** Local administrative charges are considered minimal and consequently not passed on to the debtor. However, when a debt is submitted to Treasury for collection, Treasury assesses administrative costs to FPI, and they are passed on to the debtor.

/s/

Kathleen Hawke Sawyer
Director

Sample Initial Demand Notice - First Notice

Dear

Our records indicate that you have not yet made payment to Federal Prison Industries, Inc. (FPI) for the outstanding invoice(s) described below:

[Include invoice number, amount due, interest and penalty due to date if applicable, description/reason for indebtedness, and any other pertinent information.]

Please either (1) remit the full amount or (2) provide evidence to show the billing is in error within fifteen (15) working days from the date of this letter. If you choose, FPI can grant you an opportunity to inspect and copy any records relating to this debt. Interest is being assessed at the rate of [current Treasury rate] percent per year on the amount past due until the debt is PAID IN FULL; a penalty charge of 6 percent per year will be charged on the amount due for debts over 90 days and will accrue from the date the debt became delinquent. In addition, you may be charged an administrative fee each time an effort is made to collect this debt. Authorization to assess interest, penalty fees, and administrative costs can be found in 4 CFR 102.

If we do not receive payment from you within 30 days from the date of this notice, your debt may be collected by internal offset. In addition, your debt may be referred to the United States Treasury and an additional collection fee will be assessed against your amount now due. Your debt may be disclosed to a consumer reporting agency (credit bureau) and subject to offset of any tax refund due you from the Internal Revenue Service (IRS). Additionally your unpaid debt may be subject to administrative or salary offset and possible referral to a Collection Agency, and/or referral to FPI Counsel or the Department of Justice Counsel for litigation. If any part of this debt is discharged, the amount of the discharge may be reported to the IRS as potential taxable income.

You have a right to a full explanation of the debt and to dispute any information in our records concerning your debt. In lieu of administrative offset, you may have an opportunity to enter into a written repayment agreement. Please direct any questions in regard to your debt to _____ at _____. If payment has been made, please disregard this notice.

Make your check payable to Federal Prison Industries and mail all payments _____.

Sincerely,

Debt Information

Agency: Federal Prison Industries

Agency Debt Number _____

Debt Description:	Consumer	Commercial
	Secured	Unsecured

Debt Type: Administrative

Administrative Classification:	_____	Overpayment
	_____	Fine
	_____	Penalty
	_____	Fee
	_____	Employee Advance
	_____	Miscellaneous Debt

Program: Other

Date of Delinquency _____

Original Value of Debt \$_____

Balance at time of referral to the DMSC:

Principal	\$_____
Late Interest	\$_____
Administrative Cost	\$_____
Penalty	\$_____
Total	\$_____

Interest Rate _____%

Date of last interest calculation _____

Has debt been referred to Private Collection Agency for 1st referral? Yes No

Has debt been referred to Private Collection Agency for 2nd referral? Yes No

Is debt in judgment? Yes No

(If yes to any of the above, please complete Additional Debt Information form)

Contact for Debt Inquiries _____
Contact Phone Number _____

Debtor Response: _____ No Response
 _____ Debt Disputed Date: _____
 _____ Debt Acknowledged Date: _____

Additional Debtor Information:
Company/State or Local Government Debtor

Agency Debt Number _____
Company Name _____
TIN _____

Debtor's Association to Debt:

Individual	Signer	Joint Account	
Joint Contractual Liability		Deceased	Co-Signer
Authorized User	On-Behalf-Of		

% Debt Owning _____
Guarantor/Co-Signer Name* _____ * (Only if no debtor information
Please submit a separate Debtor Information Form for each guarantor. form on co-debtor)

Type of Business _____
DUNS Number _____
Date of Incorporation _____
State of Incorporation _____

Bank Name _____
City, State, Zip, Country _____
Phone _____
Account # _____
Account Type: Checking Saving Other: _____

Personal Property Information _____

Real Property Information _____

Last Payment Information Date: _____ Amount \$ _____

Miscellaneous collection notes _____

Debtor Information: Individual Debtor

Associated Agency Debt Number _____
TIN _____
Last Name _____
First Name _____
Middle Initial _____
Generation: _____ Jr. Sr. I II III IV V (Circle One)
Gender: _____ Male Female Unknown (Circle One)

AKA/FKA/DBA _____

Address Line 1 _____
Address Line 2 _____

City _____
State _____
Zip Code _____
Phone _____

Primary Debtor? Yes No (Assumes Yes)
Any guarantors/co-signers etc.? Yes No (Assumes No)
Please submit a separate Debtor Information Form for each additional responsible party

Date of Birth _____
Date of Death _____

Debtor in Bankruptcy? Yes No (Circle One)
Date of Bankruptcy _____
Bankruptcy Title: 7 11 12 13 Unidentified (Circle One)

Date of last contact with debtor _____

Date of last demand letter _____

Debtor Response: _____ No Response
_____ Debt Disputed Date: _____
_____ Debt Acknowledged Date: _____

Additional Debtor Information: Individual Debtor

Agency Debt Number _____
Debtor Name _____
TIN _____

Relationship to Primary Debtor:

Self Spouse Sibling Parent Other: _____
Owner President Vice-President Shareholder Other: _____

Debtor's Association to Debt:

Individual Signer Joint Account
Joint Contractual Liability Deceased Co-Signer
Authorized User On-Behalf-Of

% Debt Owning _____

Guarantor/Co-Signer Name* _____ * (Only if no debtor information
Please submit a separate Debtor Information Form for each guarantor. form on co-debtor)

Employer _____

City _____

State, Zip, Country _____

Phone _____

Job Title _____

Salary \$ _____ Hour Week Month Year Other: _____
Gross Net (Circle One)

Federal Employee Status

Civilian Employee: Active Retired Not applicable/unknown
Military Employee: Active Retired Not applicable/unknown

Bank Name _____

City _____

State, Zip, Country _____

Phone _____

Account # _____

Account Type: Checking Savings Other: _____

Personal Property Information _____

Real Property Information _____

Last Payment Information Date: _____ Amount \$ _____

Miscellaneous collection notes _____

Additional Debt Information

Agency Debt Number _____

Basis of Claim:

_____ Claim evidenced by note, guarantee,
surety obligation

_____ Claim evidenced by statute or regulation
Statute:

Original Award Date _____
 Terms (of original loan) _____ In # months

Summary of Collection Activities

Last Credit Reporting Date _____

PCA(1) Name _____
 PCA(1) Referral Date _____
 Amount collected \$ _____

PCA(2) Name _____
PCA(2) Referral Date _____
Amount collected \$ _____

Date sent to DOJ _____

Judgment Date _____
 Judgment Type: Default Consent Summary Other: _____

Judgment Amount \$_____

Date Written-Off _____
Amount Written-Off \$ _____

Other collection actions _____

CERTIFICATION - DEBT COLLECTION

With respect to the debts attached or transmitted with this certification, I certify the following:

Valid Debts. The debts are delinquent, valid and legally enforceable in the amounts stated.

No Bar to Collection. The debts are not subject to any circumstances that legally preclude or bar collection, including collection by offset. There are no foreclosures pending with respect to any collateral securing a debt. FPI's records do not show that any debtor owing a debt has filed for bankruptcy protection. Alternatively, FPI can clearly establish that any automatic stay has been lifted or is no longer in effect.

Administrative Offset and Tax Refund Offset. FPI has complied with all of the provisions of 31 U.S.C. § 3716 and 4 CFR Part 102, as well as other statutes, regulations and policies applicable to collection by administrative offset by FPI. FPI has provided each debtor with:

written notification of the nature and the amount of the debt, the intention of FPI to collect the debt through administrative offset, and an explanation of the rights of the debtor;
an opportunity to inspect and copy the records of FPI with respect to the debt;
an opportunity for review within FPI of the determination of FPI with respect to the debt; and
an opportunity to enter into a written repayment agreement with FPI.

Consumer Reporting Agencies. FPI has complied with all of the provisions of 31 U.S.C. § 3711(e) and 4 CFR Part 102, as well as other statutes, regulations and policies applicable to FPI's reporting of delinquent debts to consumer reporting agencies. FPI has:

determined that the debts are valid and overdue;
notified the debtor, more than 60 days prior to the date of this certification: (a) that the debt is overdue, (b) that FPI intends to disclose to a consumer reporting agency that the debtor is responsible for the debt, (c) of the specific information to be disclosed to the consumer reporting agency, and (d) of the debtor's rights to an explanation of the claim, to dispute the information in FPI's records about the claim, and to administrative appeal or review of the claim; and upon the request of a debtor, provided for a review of any debtor's claim, including an opportunity for reconsideration of the initial decision on the claim.

In addition, no debtor has repaid or agreed to repay the claim under a signed repayment agreement or filed for review of the claim.

Interest and Penalties. FPI has complied with all of the provisions of 31 U.S.C. § 3717 and 4 CFR Part 102, as well as other statutes, regulations and policies applicable to FPI's assessment of interest, penalties and administrative costs. FPI has mailed or hand-delivered a written notice to all debtors explaining FPI's requirements concerning the charges.

CERTIFICATION: Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury, that to the best of my knowledge and belief, and/or based upon FPI certification, that the foregoing is true and correct.

Date

[Signature of Certifying Official]

Print Name: _____

Title: _____

Agency: _____